

## 1.6045-2T

## 26 CFR Ch. I (4-1-03 Edition)

are listed in the instructions for Form 1096.

(4) *Cross-reference to penalties.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6045(d) and §1.6045-2(g)(1), including a failure to file on magnetic media, see §301.6721-1 of this chapter. For provisions relating to the penalty provided for failure to furnish timely a correct payee statement required under section 6045(d) and §1.6045-2(a), see §301.6722-1 of this chapter. See §301.6724-1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(h) *Coordination with section 6042.* In cases in which reporting is required by both sections 6042 and 6045(d) with respect to the same substitute payment in lieu of a dividend, the provisions of section 6045(d) control, and no report or statement under section 6042 need be made. If reporting is not required under section 6045(d) with respect to a substitute payment in lieu of a dividend, a report under section 6042 must be made if required in accordance with the rules of section 6042 and the regulations thereunder. Thus, if a broker receives a substitute payment in lieu of a dividend on behalf of an individual customer and the broker does not have reason to know by the record date of the payment that the payment is in lieu of a dividend of a type described in paragraphs (a)(3)(ii)(A) through (D) of this section, the broker must report with respect to the substitute payment if required in accordance with section 6042 and the regulations thereunder.

(i) *Effective date.* These regulations apply to substitute payments received by a broker after December 31, 1984. With regard to paragraph (g)(2) of this section, see section 6011(e) of the Internal Revenue Code for information returns required to be filed after December 31, 1989, and before January 1, 1997; and see paragraph (g)(2) of this section for information returns required to be filed after December 31, 1996.

[T.D. 8029, 50 FR 23677, June 5, 1985, as amended by T.D. 8683, 61 FR 53060, Oct. 10, 1996; T.D. 8734, 62 FR 53480, Oct. 14, 1997; T.D. 8770, 63 FR 35519, June 30, 1998; T.D. 8895, 65 FR 50407, Aug. 18, 2000; T.D. 9010, 67 FR 48759, July 26, 2002]

### **1.6045-2T Furnishing statement required with respect to certain substitute payments (temporary).**

(a)-(g)(1) [Reserved]

For further guidance, see §1.6045-2 (a) through (g)(1).

(g)(2) *Use of magnetic media.* For information returns filed after December 31, 1996, see §301.6011-2T of this chapter for rules relating to filing information returns on magnetic media and for rules relating to waivers granted for undue hardship. For information returns filed prior to January 1, 1997, see §1.6045-2(g)(2).

[T.D. 8683, 62 FR 53060, Oct. 10, 1996]

### **§1.6045-3T Information reporting for an acquisition of control or a substantial change in capital structure (temporary).**

(a) *In general.* Any broker (as defined in §1.6045-1(a)(1)) who receives a form 1099-CAP from a corporation pursuant to §1.6043-4T as the record holder of stock in such corporation but who is not the actual owner thereof shall file a return of information with respect to the actual owner unless the actual owner is an exempt recipient as defined in §1.6045-1(c)(3)(i).

(b) *Form, manner and time for making information returns.* The return required by paragraph (a) of this section must be on forms 1096 and 1099-CAP, or on an acceptable substitute statement. Such forms must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of control or the substantial change in capital structure occurs.

(c) *Contents of return.* A separate form 1099-CAP must be prepared for each owner showing—

(1) The name, address and taxpayer identification number of the actual owner;

(2) The number and class of shares in the corporation exchanged by the actual owner;

(3) The amount of cash and the fair market value of stock or other property provided to the actual owner in exchange for its stock, that would have been reported by the corporation under §1.6043-4T if the corporation had provided the form 1099-CAP directly to the

actual owner (rather than to the broker as nominee); and

(4) Such other information as may be required by form 1099-CAP.

(d) *Furnishing of forms to actual owners.* The form 1099-CAP prepared for each actual owner must be furnished to the actual owner on or before February 28 of the year following the calendar year in which the actual owner receives stock, cash, or other property.

(e) *Single Form 1099.* If a broker is required to file a form 1099 with respect to an owner under both this § 1.6045-3T and § 1.6045-1(b), the broker may satisfy the requirements of both sections by filing and furnishing one form 1099 that contains all the relevant information, as provided in the instructions to form 1099-CAP.

(f) *Effective date.* This section applies with respect to any form 1099-CAP received by a broker after November 13, 2002. The applicability of this section expires on November 14, 2005.

[T.D. 9022, 67 FR 69472, Nov. 18, 2002; 68 FR 6081, Feb. 6, 2003]

**§ 1.6045-4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.**

(a) *Requirement of reporting.* Except as otherwise provided in paragraphs (c) and (d) of this section, a real estate reporting person ("reporting person") must make an information return with respect to a real estate transaction and, under paragraph (m) of this section, must furnish a statement to the transferor. A reporting person may also report with respect to transactions otherwise excepted in paragraphs (c) and (d) of this section. However, if the reporting person so elects, the return must be filed and the statement furnished in accordance with the provisions of this section. For the definition of a real estate transaction for purposes of these reporting requirements, see paragraph (b) of this section. For rules for determining the reporting person with respect to a real estate transaction, see paragraph (e) of this section.

(b) *Definition of real estate transaction—(1) In general.* A transaction is a "real estate transaction" under this section if the transaction

consists in whole or in part of the sale or exchange of "reportable real estate" (as defined in paragraph (b)(2) of this section) for money, indebtedness, property other than money, or services. The term "sale or exchange" shall include any transaction properly treated as a sale or exchange for Federal income tax purposes, whether or not the transaction is currently taxable. Thus, for example, a sale or exchange of a principal residence is a real estate transaction under this section even though the transferor is entitled to defer recognition under section 1034 (relating to rollover of gain on sale of principal residence), or the transferor is entitled to the special one-time exclusion of gain from the sale of a principal residence provided by section 121 to certain persons who have attained age 55.

(2) *Definition of reportable real estate.* Except as otherwise provided in paragraph (c)(2) of this section, the term "reportable real estate" means any present or future ownership interest in—

- (i) Land (whether improved or unimproved), including air space;
- (ii) Any inherently permanent structure, including any residential, commercial or industrial building;
- (iii) Any condominium unit, including appurtenant fixtures and common elements (including land); or
- (iv) Any stock in a cooperative housing corporation (as defined in section 216).

For purposes of this section, the term "ownership interest" includes fee simple interests, life estates, reversions, remainders, and perpetual easements. In addition, the term "ownership interest" includes any previously created rights to possession or use for all or a portion of any particular year (*i.e.*, a leasehold, easement, or "timeshare"), with a remaining term of at least 30 years, including any period for which such rights may be renewed at the option of the holder of the rights, as determined on the date of closing (as defined in paragraph (h)(2)(ii) of this section). Thus, for example, a pre-existing leasehold on a building with an original term of 99 years is an ownership interest in real estate for purposes of this section if it has a remaining term of 35